



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 466-17
MAY 22 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 May 2017. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

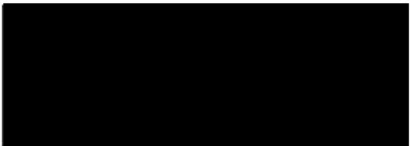
You enlisted in the Marine Corps and began a period of active duty on 28 February 1972. You served for eight months without disciplinary incident, but during the period from 5 October 1972 to 1 July 1975, you received nonjudicial punishment (NJP) on four occasions, were convicted by two summary courts-martial (SCM) and one special court-martial (SPCM). Your offenses were absence from your appointed place of duty, unauthorized absence (UA) from your unit for periods totaling 101 days, failure to go to your appointed place of duty, and failure to obey a lawful regulation.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. At which time you waived your procedural rights to consult with legal counsel and to present your case to an administrative discharge board (ADB). Your commanding officer recommended discharge under other than honorable conditions by reason of misconduct due to frequent involvement with military authorities of a discreditable nature. The discharge authority approved the recommendation and directed separation under other than honorable conditions by reason of misconduct. On 1 August 1975 you were discharged.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, and your contention that all the bad things said about you in your record are lies. Nevertheless, the Board concluded these factors were not sufficient to warrant relief in your case because of the seriousness of your repeated misconduct that resulted in four NJPs, an SPCM, two SCMs, and periods of UA amounting to over three months. Further, you were given an opportunity to defend your actions, but waived your procedural rights. Regarding your contention, the Board noted that there is no evidence that the documentation in your official service record book is incorrect. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Your allegations, unsupported in the record or by submission of documentation failed to overcome that presumption. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


Executive Director